

REMARKS

Claims 3-26 are pending. Claims 3, 11, 17, 19 and 25 have been amended. No new matter has been added. The Non-Final Office Action mailed on June 10, 2008 has been reviewed and carefully considered. The Applicant respectfully requests the Examiner's reconsideration of the rejection of Claims 3-26 in light of the following remarks.

Additionally, the Applicant respectfully draws the Examiner's attention to claim 4, which appears to have been inadvertently listed as cancelled on the Examiner's June 10, 2008 Index of Claims. Claim 4 was discussed in the Applicant's previous Office Action response of March 7, 2008, and was not cancelled. The Applicant believes that Claim 4 has been properly maintained without cancellation throughout prosecution of the instant application, and is currently pending.

A. Claim Rejections Under 35 U.S.C. § 103

Claims 3-26 currently stand rejected under 35 U.S.C. 103(a) over United States Patent No. 5,689,652, to Lupien, et al. ("Lupien") in view of United States Patent No. 5,598,351, to Chater, et al, ("Chater").

The Applicant respectfully asserts that Lupien, taken singly, or in combination with Chater, fails to anticipate, or even render obvious, all of the elements of Claims 3-26. Referring specifically to independent Claim 3, the Applicant respectfully asserts that Claim 3 includes the method steps of "administering to a second user a second test via the Internet and receiving said second user's preferences in response to said second test, *wherein said second test includes presenting at least said set of at least two visual images,*" and that Lupien and Chater fail to render at least this element obvious.

Chater is directed primarily to “facilitating introductions.” (Chater, col. 1, l. 4). In particular, Chater teaches a system where a person may record a video for viewing by others. (Chater, col. 3, ll 13-42). A second person then views that video, (Chater col. 3, l. 60 – col. 4, l. 6) indicates their interest in the video (Chater col. 4, ll. 6-8) and sends a video of themselves, *different from the first video* to the first person. (Chater, col. 4, ll. 7-16). Simply put, Chater permits two users to exchange videos.

However, Chater fails to disclose, or even render obvious, presenting the same set of visual images in the second test. In fact, Chater teaches away from administering a second test to a second user “*wherein said second test includes presenting at least said set of at least two visual images*” because Chater is directed to showing two different users videos of the opposite user. By its very nature, those two videos are different. Thus, Chater teaches away from the elements recited in Claim 3.

The Examiner stated that Lupien “fails to disclose presenting a set of at least two visual images or video to the first user and receiving the first user’s preference based on the visual image or video...” (Office Action of June 10, 2008, page 3). Thus, the Examiner has recognized that Lupien also fails to teach presenting a set of at least two visual images to a user. Thus, taken singly or in combination, Chater and Lupien fail to disclose or render obvious the feature of “administering to a second user a second test via the Internet and receiving said second user’s preferences in response to said second test, *wherein said second test includes presenting at least said set of at least two visual images*” are recited in Claim 3.

The Examiner also stated that Lupien “fails to explicitly disclose...receiving the first user’s preferences based on the visual image or video.” The Applicant respectfully asserts that

Chater also fails to teach such a feature. In particular, Chater does not disclose or render obvious “receiving first user’s preferences based on said visual images.” Instead of gathering the user’s preferences, the user indicates the acceptance of a particular video from a person of the opposite sex. There is no limit on the number of videos that may be selectable, and so there is no opportunity for a first party to make the selection of one video over another. Chater does not teach getting a user’s selection or preferences for one visual image over another. Instead, Chater prompts a user to accept or reject a particular video, without comparison between images in the set of images. Therefore, Chater cannot anticipate or render obvious the method step “receiving said first user’s preferences based on said visual images” as recited in Claim 3.

The Applicant traverses the Examiner’s assertion that Lupien teaches “matching the first user with the second user *according to visual preferences*, whenever the profile of the first user *matches* the profile of the second user.” (Office Action of June 10, 2008, page 3, citing Lupien, col. 4, ll. 10-26). Lupien does not teach using visual preferences, or matching profile of two users. Instead, Lupien uses satisfaction density profile for each user. (Lupien, col. 4, ll. 10-12. These satisfaction density profiles are a set of numbers “indicat[ing] the trader’s satisfaction to trade that size order at that size price.” (Lupien, col. 3, ll. 61-62). Thus, there are no visual preferences at all, and therefore any profile matching cannot be “according on visual preferences,” as recited in Claim 3.

Furthermore, Lupien teaches creating cross products of the satisfaction densities for each buy and sell order combination, and using those generated numbers to rank the satisfaction of making a trade. (Lupien, col. 4, ll. 17-27). Lupien merely teaches ranking matches of the buy and sell orders according to their cross product, and then executing the trades in the calculated

ranked order. (Lupien, col. 4, ll. 17-27). There is no comparison of each buy order to each sell order, and there is no method taught or suggested for matching users “whenever the profile of the first user *matches* the profile of the second user.” Thus, Lupien cannot anticipate or render obvious the method step of “matching the first user with the second user... whenever the profile of the first user *matches* the profile of the second user” as recited in Claim 3.

Therefore, when taken singly, or in combination, Lupien and Chater fail to anticipate, render obvious, or remotely suggest all of the elements of Claim 3. Independent Claims 11 and 19 have elements analogous to those discussed above for independent Claim 3, and are, therefore, patentable over the combination of Lupien and Chater for at least the same reasons as Claim 3.

Claims 4-10 depend from independent Claim 3, Claims 12-18 depend from independent claim 11, and Claims 20-26 depend from independent claim 19. By virtue of their dependencies, claims 4-10, 12-18 and 20-26 have the same elements and limitations as claims 3, 11 and 19 respectively. Claims 4-10, 12-18 and 20-26 are, therefore, patentable over Lupien and Chater for at least the same reasons as the independent claims from which they depend.

CONCLUSION

In view of the foregoing, Applicant respectfully submits that the present invention as claimed in Claims 3-26 represents a patentable contribution to the art and the application is in condition for allowance. Early and favorable action is accordingly solicited.

Respectfully submitted,



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Dated: September 10, 2008